

Senate Bill 152

By: Senator Bulloch of the 11th

**AS PASSED**

**AN ACT**

To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to change certain provisions relating to administrative authority of the Commissioner of Agriculture, hearings, penalties, final decisions, and judicial review; to change certain provisions relating to imposition of penalty in lieu of other action; to authorize the Commissioner of Agriculture to create, register, license, promote, and protect a trademark for use in connection with the general promotion of all agricultural commodities grown in this state; to define certain terms; to provide for an Agricultural Commodity Commission for Ornamental Plants; to provide for balloting; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code Section 2-2-9.1, relating to administrative authority of the Commissioner of Agriculture, hearings, penalties, final decisions, and judicial review, by revising subsections (c) and (g) and paragraph (1) of subsection (h) as follows:

"(c) Any administrative order issued by the Commissioner shall specify the alleged violation, monetary penalty, or other sanction; prescribe a reasonable time for some type of action to be accomplished; and provide notice of the right to a hearing. Any order issued pursuant to this Code section shall become final unless the aggrieved or adversely affected registrant, licensee, permittee, applicant, equine owner, livestock owner, dog or cat owner, exotic and pet bird owner, or farmer of crops or livestock, chickens, or other animals timely requests a hearing in writing as provided by this Code section."

"(g) Prior to notice, hearing, or determination, the Commissioner is authorized to impose civil penalties in settlement of contested cases through administrative consent orders. The Commissioner is authorized to impose through administrative consent orders civil penalties of up to and including the applicable maximum amounts provided by paragraph (1) of

subsection (h) of this Code section. Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92.

(h)(1) The Commissioner may seek civil penalties for the violation of those laws to be enforced by the Department of Agriculture; and where the imposition of such civil penalties is provided for therein, the Commissioner upon written request may cause a hearing to be conducted before a hearing officer appointed or designated by the Commissioner for the purpose of determining whether such civil penalties should be imposed in accordance with the applicable law; and where the imposition of such civil penalties is not provided for therein but violation of such law is punishable as a criminal offense, the Commissioner upon written request may cause a hearing to be conducted before a hearing officer appointed or designated by the Commissioner for the purpose of determining whether civil penalties in an amount not to exceed \$1,000.00 per violation should be imposed. Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92."

## **SECTION 2.**

Said title is further amended in Code Section 2-2-10, relating to imposition of penalty in lieu of other action, by adding a new subsection to read as follows:

"(c) Any civil penalties recovered shall be paid over into the general fund of the state treasury in accordance with Code Section 45-12-92."

## **SECTION 3.**

Said title is further amended by adding a new article to read as follows:

### **"ARTICLE 1A**

**2-8-5.**

(a) As used in this Code section, the term:

(1) 'Agricultural commodities' means any and all agricultural, horticultural, floricultural, and vegetable products produced in this state or any class, variety, or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor, and shall include any one, any combination thereof, or all of the agricultural products, livestock and livestock products, poultry and poultry products, timber and timber products, fish and seafood, and the products of the farms and forests of this state.

(2) 'Processor' has the meaning provided by Code Section 2-8-11.

(3) 'Producer' has the meaning provided by Code Section 2-8-11.

(b) The Commissioner shall be authorized to take all actions necessary and appropriate to create, register, license, promote, and protect a trademark for use in connection with the general promotion of agricultural commodities as being Georgia grown."

#### **SECTION 4.**

Said title is further amended in subsection (a) of Code Section 2-8-13, relating to established agricultural commodity commissions and ratifications, contributions, and balloting relating thereto, by adding a new paragraph to read as follows:

"(4) There shall be an Agricultural Commodity Commission for Ornamental Plants established on the effective date of this paragraph. For purposes of this paragraph, the term 'ornamental plants' means any plants grown in commercial nurseries for sale as live plants for use primarily in ornamental or landscape plantings; such term shall not include turf production or plants grown in nurseries for other agricultural, horticultural, or silvicultural use."

#### **SECTION 5.**

Said title is further amended in subsection (c) of Code Section 2-8-13, relating to established agricultural commodity commissions and ratifications, contributions, and balloting relating thereto, by adding a new paragraph to read as follows:

"(4) Prior to April 30, 2011, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (4) of subsection (a) of this Code section shall continue to exist and operate under this article."

#### **SECTION 6.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 7.**

Section 1 of this Act shall apply to violations occurring on or after the effective date of this Act.

**SECTION 8.**

All laws and parts of laws in conflict with this Act are repealed.